

**IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF NEBRASKA**

PATTI PORTER,

Plaintiff,

Case No. _____

v.

NOTICE OF REMOVAL

ESTES EXPRESS LINES CORPORATION
AND KENT HARRYMAN,

Defendants.

Defendants, Estes Express Lines Corporation (“Estes Express”) and Kent Harryman (“Harryman), notify the Court that they have removed the above-referenced action from the District Court of Douglas County, Nebraska to the United States District Court for the District of Nebraska.

In support of this Notice, Defendants state as follows:

1. Plaintiff, Patti Porter (“Porter”), filed the above-entitled civil action in the Nebraska District Court in and for Douglas County on August 19, 2020. ("State Court Action"). The first Defendants were served a copy of the Complaint was on August 24, 2020. Accordingly, this Notice of Removal is filed pursuant to 28 U.S.C. § 1446 within 30 days of the Defendants' first receipt of the Complaint.

2. The United States District Court for the District of Nebraska, has original jurisdiction under 28 U.S.C. § 1332, and the action may be removed by Defendants pursuant to 28 U.S.C. §§ 1441 and 1446.

3. At the time that Porter filed her Complaint in the State Court Action, and at the time of filing of this Notice of Removal, complete diversity existed between Porter and Defendants pursuant to 28 U.S.C. §1332.

4. Upon all reasonable beliefs, both at the time the Complaint was filed and at the time

of removal, Porter was a citizen and resident of Omaha, Douglas County, Nebraska, pursuant to 28 U.S.C. §1132. (Complaint, ¶ 1).

5. Estes Express is incorporated in Richmond, Virginia. Estes Express' principal office is located at 3901 West Broad Street, Richmond, Virginia, 23230.

6. Harryman is a resident of Avoca, Pottawattamie County, Iowa.

7. For diversity purposes, a corporation is a citizen of the state in which it is incorporated and of the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1). A limited liability company or a limited partnership are citizens of the state in which its members or partners are citizens. *Rolling Greens MHP, L.P., v. Comcast SCH Holdings, LLC*, 374 F.3d 1020, 1021-1022 (11th Cir. 2004).

8. Therefore, at the time the Complaint was filed, Estes Express was a citizen of Virginia, Harryman was a citizen of Iowa, and Porter was a citizen of Nebraska, making complete diversity of citizenship as between the parties.

9. On information and belief, the amount in controversy exceeds \$75,000.00 as Plaintiff seeks damages for medical expenses in the amount of not less than \$500,037.47, future medical expenses, past and future lost wages, past and future physical/mental pain and suffering, and past and future inconvenience. (Complaint, ¶ 11)

10. Attached as Exhibit "A" and incorporated by reference are true and correct copies of all pleadings and papers filed in this action in the District Court of Douglas County, Nebraska. Defendant knows of no other pleadings or papers that have been served or filed with the District Court of Douglas County, Nebraska in this matter.

11. Attached as Exhibit "B" is a true and correct copy of the Notice of Filing of Notice of Removal directed to the District Court of Douglas County, Nebraska being served upon

Plaintiff's counsel contemporaneously with the filing of this Notice and being filed with the Clerk of the District Court of Douglas County, Nebraska on this date.

12. Defendants expressly reserve all defenses to Plaintiff's claims, including, but not limited to, all defenses based in law, equity, statute, constitution, jurisdiction, or immunity, any other defense or avoidance, and does not waive any defense by this removal.

13. Defendants request trial of this matter in Omaha, Nebraska.

WHEREFORE, in accordance with the statutory authority set forth above, Defendants Estes Express and Harryman hereby remove this action from the District Court of Douglas County, Nebraska to the United States District Court for the District of Nebraska.

Dated this 22nd day of September, 2020.

ESTES EXPRESS LINES CORPORATION, and
KENT HARRYMAN, Defendants,

By: /s/Jennifer D. Tricker

Jennifer D. Tricker, (NE#23022)

of BAIRD HOLM LLP

1700 Farnam St

Omaha, NE 68102-2068

Phone: 402-344-0500

Facsimile: 402-344-0588

jtricker@bairdholm.com

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of September, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Blake H.D.Maaske
Dowding, Dowding, Dowding, & Urbom
201 N 8th Street, Suite 242
P.O. Box 83103
Lincoln, NE 68501-3103
blake@dowdinglaw.com

/s/Jennifer D. Tricker

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

PATTI PORTER,)	Case No.:
)	
Plaintiff,)	
)	
v.)	COMPLAINT AND
)	REQUEST FOR JURY TRIAL
ESTES EXPRESS LINES)	
CORPORATION AND KENT)	
HARRYMAN,)	
)	
Defendants.)	

COMES NOW the Plaintiff, Patti Porter, through her attorney, Blake H.D. Maaske, and for her cause of action against the Defendants, Estes Express Line Corporation, and Kent Harryman, states and alleges as follows:

CAUSE OF ACTION

1. Plaintiff, Patti Porter, is a resident of Omaha, Douglas County, Nebraska.
2. Defendant, Estes Express Lines Corporation, is incorporated in Richmond, Virginia.
3. Defendant, Estes Express Lines Corp. principal office is located at 3901 West Broad Street, Richmond, Virginia, 23230.
4. Defendant, Estes Express Lines Corp. is licensed to do business in the state of Nebraska.
5. Defendant, Kent Harryman, is a resident of Avoca, Pottawattamie County, Iowa.
6. At all relevant times, Defendant Kent Harryman was an owner, employee, agent, and/or servant of Defendant Estes Express Lines Corp.
7. On or about August 23rd, 2016, Plaintiff, Patti Porter was traveling southbound on South 180th Street, in Omaha, Douglas County, Nebraska, when a tractor trailer,

EXHIBIT

A

owned by Defendant Estes Express Lines Corp., and driven by Defendant Kent Harryman, attempted to put his semi-truck in reverse, colliding with the front of Ms. Porter's vehicle, resulting in a motor vehicle collision.

8. At the time of the collision referenced in the previous paragraph, Defendant Kent Harryman was acting in the course and scope of his employment with Defendant Estes Express Lines Corp.
9. The negligence of Defendant Kent Harryman is imputed to Defendant Estes Express Lines Corp. via the doctrine of respondeat superior, thereby making Estes Express Lines Corp. vicariously liable for the negligent acts and/or omissions of Defendant Kent Harryman.
10. The aforementioned collision was the direct and proximate result of the negligence of the Defendant, Kent Harryman, for which Defendant Estes Express Lines Corp. is vicariously liable, in one or more of the following particulars:
 - a. Failing to keep a proper lookout;
 - b. Failing to look at a time when looking would have been effective to avoid the collision;
 - c. Failing to safely back a semi-truck up on any roadway, in violation of *Neb. Rev. Stat.* 60-6,169; and
 - d. Failing to see what is in plain sight;
11. As a proximate result of the aforementioned collision, the Plaintiff, Patti Porter, suffered the following compensable damages for which the Defendants are jointly and severally liable:

- a. Nature and extent of the injury to her person, including injury to her head, neck, and back;
- b. Medical expenses to date, in the amount of \$500,037.47, or in an amount to be determined at trial;
- c. The reasonable value of medical expenses reasonably certain to be needed and provided in the future;
- d. Lost wages to date in the amount of \$10,000.00, or in an amount to be determined at trial;
- e. The reasonable value of future lost wages reasonably certain to be incurred in the future;
- f. Physical pain and mental suffering to date;
- g. Physical pain and mental suffering reasonably certain to be experienced in the future;
- h. Inconvenience experienced to date; and
- i. Inconvenience reasonably certain to be experienced in the future.

WHEREFORE, Plaintiff, Patti Porter, prays for judgment against the Defendants for all of her general and special damages, for costs, and for such other relief as is just and equitable.

DATED this 19th day of August, 2020.

BY: PATTI PORTER, Plaintiff

BY: DOWDING, DOWDING, DOWDING & URBOM
201 N. 8th Street, Suite 242
P.O. Box 83103
Lincoln, NE 68501-3103
Phone: (402) 477-1010
Fax: (402) 477-9913
E-mail: blake@dowdinglaw.com

BY: /s/ Blake H.D. Maaske
BLAKE H.D. MAASKE, #26066
Attorney for Plaintiff

REQUEST FOR JURY TRIAL

Plaintiff hereby requests a jury trial for the cause of action against Defendants.

BY: /s/ Blake H.D. Maaske
Blake H.D. Maaske

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

PATTI PORTER,)	Case No.:
)	
Plaintiff,)	
)	
v.)	PRAECIPE
)	
ESTES EXPRESS LINES)	
CORPORATION AND KENT)	
HARRYMAN)	
)	
Defendant.)	

PRAECIPE

TO THE CLERK OF SAID COURT:

Please issue summons and return same to Plaintiff's attorney for service on the Defendants, by certified mail, at the following address:

Estes Express Lines Corporation
CSC- Lawyers Incorporating Service Company
233 South 13th Street, Suite 1900
Lincoln, NE 68508-0000

Kent Harryman
212 E. Thomas Street
Avoca, IA 51521

BY: /s/ Blake H.D. Maaske
BLAKE H.D. MAASKE, #26066

Image ID:
D00688845D01

SUMMONS

Doc. No. 688845

IN THE DISTRICT COURT OF Douglas COUNTY, NEBRASKA
1701 Farnam
Omaha NE 68183

Patti Porter v. Estes Express Lines Corporation

Case ID: CI 20 6567

TO: Estes Express Lines Corporation

FILED BY

Clerk of the Douglas District Court
08/20/2020

You have been sued by the following plaintiff(s):

Patti Porter

Plaintiff's Attorney: Blake H Maaske
Address: PO Box 83103
201 North 8th Street Suite 242
Lincoln, NE 68501
Telephone: (402) 477-1010

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: AUGUST 20, 2020

BY THE COURT:

John M. Friend
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Estes Express Lines Corporation
c/o CSC-Lawyers Inc. Serv. Co.
233 South 13th Street, Suite 1900
Lincoln, NE 68508

Method of service: Certified Mail

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.

	SERVICE RETURN	Doc. No. 688845
--	-----------------------	-----------------

Douglas District Court
1701 Farnam
Omaha NE 68183

To:

Case ID: CI 20 6567 Porter v. Estes Express Lines Corporatio

Received this Summons on _____, _____. I hereby certify that on
_____, ____ at _____ o'clock __M. I served copies of the Summons
upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage ____miles _____

TOTAL \$ _____

Date: _____ BY: _____
(Sheriff or authorized person)

CERTIFIED MAIL PROOF OF SERVICE

Copies of the Summons were mailed by certified mail,
TO THE PARTY: _____

At the following address: _____

on the _____ day of _____, as required by Nebraska state law.

Postage \$ _____ Attorney for: _____

The return receipt for mailing to the party was signed on _____, _____.

To: Estes Express Lines Corporation
c/o CSC-Lawyers Inc. Serv. Co.
233 South 13th Street, Suite 1900
Lincoln, NE 68508

From: Blake H Maaske
PO Box 83103
201 North 8th Street Suite 242
Lincoln, NE 68501

ATTACH RETURN RECEIPT & RETURN TO COURT

Image ID:
D00688846D01

SUMMONS

Doc. No. 688846

IN THE DISTRICT COURT OF Douglas COUNTY, NEBRASKA
1701 Farnam
Omaha NE 68183

Patti Porter v. Estes Express Lines Corporation

Case ID: CI 20 6567

TO: Kent Harryman

FILED BY
Clerk of the Douglas District Court
08/20/2020

You have been sued by the following plaintiff(s):

Patti Porter

Plaintiff's Attorney: Blake H Maaske
Address: PO Box 83103
201 North 8th Street Suite 242
Lincoln, NE 68501
Telephone: (402) 477-1010

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: AUGUST 20, 2020

BY THE COURT:

John M. Friend
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Kent Harryman
212 E. Thomas Streee
Avoca, IA 51521

Method of service: Certified Mail

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.

	SERVICE RETURN	Doc. No. 688846
--	-----------------------	-----------------

Douglas District Court
1701 Farnam
Omaha NE 68183

To:

Case ID: CI 20 6567 Porter v. Estes Express Lines Corporatio

Received this Summons on _____, _____. I hereby certify that on
_____, ____ at _____ o'clock __M. I served copies of the Summons
upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage ____miles _____

TOTAL \$ _____

Date: _____ BY: _____
(Sheriff or authorized person)

CERTIFIED MAIL PROOF OF SERVICE

Copies of the Summons were mailed by certified mail,
TO THE PARTY: _____

At the following address: _____

on the _____ day of _____, as required by Nebraska state law.

Postage \$ _____ Attorney for: _____

The return receipt for mailing to the party was signed on _____, _____.

To: Kent Harryman
212 E. Thomas Streee

Avoca, IA 51521

From: Blake H Maaske
PO Box 83103
201 North 8th Street Suite 242
Lincoln, NE 68501

ATTACH RETURN RECEIPT & RETURN TO COURT

SERVICE RETURN

Douglas District Court
1701 Farnam
Omaha NE 68183

To:

Case ID: CI 20 6567 Porter v. Estes Express Lines Corporatio

Received this Summons on _____, I hereby certify that on
_____ at _____ o'clock __M. I served copies of the Summons
upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage _____ miles

TOTAL \$ _____

Date: _____ BY: _____
(Sheriff or authorized person)

**CERTIFIED MAIL
PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,

TO THE PARTY: Estes Express Lines Corp.

At the following address: _____

233 S. 13th St., Suite 1900
Lincoln, NE 68508

on the 20th day of August 2020, as required by Nebraska state law.

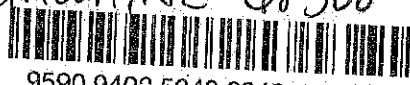
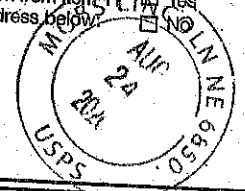
Postage \$ \$6.90 Attorney for: Patti Porter

The return receipt for mailing to the party was signed on August 24, 2020

To: Estes Express Lines Corporation
c/o CSC-Lawyers Inc. Serv. Co.
233 South 13th Street, Suite 1900
Lincoln, NE 68508

From: Blake H Maaske
PO Box 83103
201 North 8th Street Suite 242
Lincoln, NE 68501

ATTACH RETURN RECEIPT & RETURN TO COURT

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <input checked="" type="checkbox"/> <i>Anthony M. Rager</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p><i>Ester Express Lines Corp.</i> <i>CSC - Lawyers Inc. Service Corp.</i> <i>233 S. 13th St., Suite 1900</i> <i>Lincoln, NE 68508</i></p>  <p>9590 9402 5940 0049 7549 06</p>		<p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p>	
<p>2. Article Number (Transfer from service label) <i>7019 0700 0001 4301 6147</i></p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> NO If YES, enter delivery address below:</p> 	
<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>			
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053</p> <p style="text-align: right;">Domestic Return Receipt</p>			

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

PATTI PORTER,

Plaintiff,

v.

ESTES EXPRESS LINES CORPORATION
AND KENT HARRYMAN,

Defendants.

Case No. CI 20-6567

**NOTICE OF FILING NOTICE OF
REMOVAL**

Defendants, Estes Express Lines Corporation (“Estes Express”) and Kent Harryman (“Harryman”) , respectfully notify this Court of their removal of this case to the United States District Court for the District of Nebraska. Removal is based upon diversity jurisdiction under 28 U.S.C. §§ 1332, 1441 and 1446. A true and correct copy of Defendants’ Notice of Removal filed in the United States District Court for District of Nebraska is attached hereto and incorporated herein. In accordance with 28 U.S.C. § 1446(d), no further proceedings may be had in this action unless the case is remanded.

Dated this 22nd day of September, 2020.

ESTES EXPRESS LINES CORPORATION AND
KENT HARRYMAN, Defendants,

By: /s/Jennifer D. Tricker

Jennifer D. Tricker, (NE# 23022)

of BAIRD HOLM LLP

1700 Farnam St

Omaha, NE 68102-2068

Phone: 402-344-0500

Facsimile: 402-344-0588

jtricker@bairdholm.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 22nd, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

Blake H.D. Maaske
Dowding, Dowding, Dowding, & Urbom
201 N. 8th Street, Suite 242
P.O. Box 83103
Lincoln, NE 68501-3103
E-mail: blake@dowdinglaw.com

/s/Jennifer D. Tricker